

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

March 22, 2005

5:00 PM

Chairman Forest called the meeting to order.

The Clerk called the roll.

Present: Aldermen Forest, Gatsas (late), Osborne, Porter (late), Lopez

Messrs.: Alderman Smith, R. Ludwig, R. Riddle, K. Clougherty,
J. St. Hilaire, Senator D'Allesandro, Deputy Solicitor Arnold,
R. Sherman

Chairman Forest addressed Item 3 of the agenda:

Report of Committee on Community Improvement recommending that Gill Stadium be taken out of the Enterprise system in fiscal year 2006.

Alderman Smith stated I certainly appreciate this. As you know the Committee on Community Improvement sent this to the Board of Mayor and Aldermen with a favorable recommendation and the Board voted to send it to Administration and I abstained from that vote. I will tell you why. We have a beautiful facility at Gill Stadium. We put \$4 million into it and I think that if you intend to raise the revenue at Gill Stadium for the youth leagues and the School District you are going the wrong way. You will have a new stadium with no one playing in it. There are approximately 18,000 students in our school system. Of that, a considerable amount play ball and I know what the interpretation is of an Enterprise. It is a project undertaken with a user fee to help the cost of the operation but if you look at Gill Stadium it loses money every year. My point, and I would like to express this very much to my fellow colleagues, is that we put \$4 million into Gill Stadium and now we are not going to maintain it or we are going to try and raise the revenue on individual youth services like Babe Ruth, Legion, whoever utilizes it and they won't be able to afford to play in a brand-new stadium. I think we are going backwards. If you look at the different types of activities of the Parks, Recreation & Cemetery Division I have been looking over it and it seems like we have been stealing from the Manchester Derryfield Country Club because that seems like the only source of revenue and they are actually subsidizing all of the other things that we do. I believe that the City should provide services, leisure time for our youth and I don't believe we should try to raise the revenues so these fellows or young girls won't be able to play. As you

well know, Parks & Recreation has the golf course, ski area, 73 parks, 1,224 acres, two ice arenas, athletic fields, 130 baseball and tennis courts and if you take money in the Enterprise system to give it to Gill Stadium that means you are shortchanging some other avenue or maybe your Junior Deb park over on the West Side. I just want the Committee to know that I have been fighting for this for three and a half years. I do not think that Gill Stadium should be in the Enterprise and I thank you for any consideration you might give.

Chairman Forest stated as far as I am concerned I believe and I think we have all been talking about this for a few years and finally Alderman Smith decided he was going to do something about it and I sort of agree with what he says. In the meantime, are there any members of the Committee who have some questions of Alderman Smith? Just be aware that Ron Ludwig is here also.

Alderman Lopez stated I spent 18 years on the Parks & Recreation Commission so I am very familiar with this subject. I would like to hear from the Superintendent because there are some numbers here that make sense to a degree and it seems to me...I just want to get a verification as to whether it makes any difference whether it is in the Enterprise or whether it is in the City line item because it seems like the money is the same amount of money because we are subsidizing...the City side is subsidizing about \$115,000 right now and the other is being charged to the School Department and we give them all that money in the first place. With that, I would like to have comments from the Superintendent please.

Ron Ludwig, Parks, Recreation & Cemetery Director handed out a sheet on Gill Stadium. At this time for the benefit of a lot of people who don't know exactly what the Enterprise is, where it came from or how it came about I would like to read a statement into the record if you don't mind. Over the period of the last several months I have been asked by several Aldermen whether or not Gill Stadium should be part of the department Enterprise count or in the general fund budget. This has been going on for a long time as you alluded to, Alderman Forest. Just to give you a little history, the Enterprise was developed by a previous administration budget team in approximately 1997. At that time the department was not included in terms of how the Enterprise system would be developed or accounted for. Due to a lack of understanding given that we were not provided with the necessary information from which to make an informed decision, the department actually opposed the implementation of the Enterprise. The Enterprise became a reality nonetheless and the department was forced to make the best of the situation. We worked to the best of our ability to make the system work. Over the years we have made adjustments to the system, such as removing swimming pools, which were initially in the Enterprise system. At that time, the Board of Mayor and Aldermen made a decision not to charge anyone for the use of our public swimming pools or Crystal Lake, therefore, excluding pools

from the Enterprise system. Last year during the budget process you were asked by the Manchester School District to revisit how we charge them for the use of Gill Stadium and this is what we historically have called either a chargeback and now a more friendly term, service agreement. At that time, we were charging the School District for approximately 95% of the related expenses at Gill given they were pretty much the major user of the facility. Upon further investigation and because the School District did not want to be considered the owner of Gill we came up with a different system and began charging them on a per game and per practice basis comparable to that of other non-School District users. Using this approach meant that the Board of Mayor and Aldermen would need to subsidize Gill in order to cover expenses for other users who might otherwise find using Gill to be unaffordable. This system seems to have satisfied the School District and created a more even method of distributing expenses related to the use of Gill. The current system allows the Board of Mayor and Aldermen to get a more accurate allocation of the cost of Gill between the School District and non-school related groups. The question that remains is where do the dollars for major capital improvements or bonded projects come from going forward? We all know that given the recent investment at Gill few dollars will need to be invested in capital improvements in the immediate future, however, time goes by quickly and before long Gill will need not only capital improvements but funds allocated to bond projects such as a new roof. For the moment, the roof appears to be fine but given its life expectancy and that it was installed in 1985 the City should be planning for its replacement in the relatively near future. The department believes that the Enterprise system has been successful. It has allowed us to make capital improvements at all facilities. Again, understanding that we must increase user fees and keep ourselves very creative in terms of how funds come into the department and that means begging, borrowing and stealing and implementing deals from Coca Cola to obtain things like \$60,000 Zambonis and scoreboards and things that we put into ice arenas. The overall condition of the facilities in the Enterprise has improved, which is proof of a system that is working. The department was faced with years of catching up to do. We were not awarded new facilities. We were awarded very old facilities that were probably not funded adequately in the first place in terms of maintenance. The department must try to balance keeping recreation affordable as we attempt to generate funds to make necessary improvements. Prior to the arrival of the Fisher Cats, the department was in the process of developing construction documents for renovations to portions of the grandstand at an estimated cost of \$300,000. In closing, the department has attempted to accommodate the Manchester School District's request as a first priority as well as other non-profit Manchester youth groups. This greatly diminishes our ability to bring in other revenues. I am not against the philosophy but it is a philosophical difference that the department has worked with here in terms of how the Board of Mayor and Aldermen want to see Gill Stadium used for the youth in Manchester. We do allow other groups to come in. We

charge them accordingly as time permits. The current funding mechanism does not allow for the Enterprise fund to make capital improvements and major repairs at Gill without having a negative impact on other facilities within the Enterprise. In our opinion, should the Board of Mayor and Aldermen decide to leave the system as is, which basically right now is a split between what you give the School District who turns those funds over to us, it is about a half and half split with half of it being left in the Enterprise, we would recommend that future capital improvements be borne by the general fund maintaining a proportionate distribution of expenses between the School District and other users within the City. I will close by saying that if the decision is made to put Gill Stadium totally back into the general fund we could live with either system but I would ask that this Board give serious consideration to not cutting the budget for Gill each and every year as every department receives cuts thereby diminishing our ability to maintain Gill the way we all want to see it maintained since we just put \$4.5 million into it. We can live with it either way. We have been massaging this issue over the last two years since the School District has had some issues with how they were being charged to use Gill Stadium. We finally, I believe, over the last few years have satisfied the School District in that regard so they feel they are just a renter and we charge them a fee to be there but everyone else is also charged a fee to be there which you, the Board of Mayor and Aldermen, so graciously decided to fund in your general fund for the first time last year since the Enterprise was formed. That is where we are at. We can deal with it either way and we will be happy to answer any questions.

Alderman Lopez stated I have worked with both systems and I can tell you in the early years being a Commissioner we never had any money from the Board of Mayor and Aldermen to do anything major and that is one of the reasons it went into the Enterprise and since the Enterprise was started we were able to put money as you look at the documentation, into bonded projects for Gill Stadium, which was about \$680,000. I think that is important to point out. I am sure that we will hear from the Finance people also. Lately through the CIP process I have been very concerned because of the major repair that we did at Gill Stadium. We have to make sure in some mechanism whether we put the whole thing back, which is a wash and the City is responsible for Gill Stadium. If we leave it in the Enterprise the City is still responsible and we continue to give money so that the youth of the City of Manchester don't get charged and as Alderman Smith said they wouldn't use Gill Stadium and it would just sit there. That is what I am concerned about and I would like to hear from the other Aldermen before I make my decision and from Finance.

Alderman Osborne asked, Ron, since Gill Stadium has been renovated have you had anybody approach you to lease or rent any space there.

Mr. Ludwig answered not to date. It is early. We were just trying to remove some snow from the field today to get it up and running.

Alderman Osborne asked I am talking about the future. Nobody has approached you?

Mr. Ludwig answered not at this time.

Alderman Gatsas asked Ron can you...I guess I don't know the schedule of Central baseball or football is but what is the status of Gill Stadium for practice. Is Central football going to continue practicing down on the other field behind Beech Street School or are they going to practice at Gill Stadium?

Mr. Ludwig responded no. The intention of our department as the people who operate Gill Stadium right now is to let the Central High football team practice at Gill and they did do that at...actually we were working on the field trying to change it from baseball to football last year and they were in there in mid-September practicing already. This year they are actually doing some practicing in the outfield. I guess linemen run or something at this time of the year and they are actually doing some of that in the outfield at Gill in the next two or three weeks. They are using it. That is where their locker room is and it just makes more sense.

Alderman Gatsas asked what about soccer. Are the boys and girls going to play their games there?

Mr. Ludwig asked Central.

Alderman Gatsas answered yes.

Mr. Ludwig stated actually it is open to any soccer teams that want to come in and use it. Central will probably play the majority of their home soccer games at Gill. I can't speak for freshman or JV but whatever fits will be played there.

Alderman Gatsas asked if the football team is practicing...so you are assuming that they are probably going to practice behind the bleachers that would be facing the field if there is a soccer game because the football team practices on a daily basis and I just want to refresh my memory from the years that I was at Central High and we use to practice behind those bleachers.

Mr. Ludwig answered right. There could be some of that, Alderman and there may be...I know that football is out there by 3 PM or so and probably wrapping up around 5 PM in the regular season so there may be some opportunity for soccer

after them. I hadn't really thought about that. Since you brought it up it is a good question but I think that would be something to be worked out by Joe Raycraft in terms of whether he wants to allow Mr. Schubert to practice or a soccer game to be played and Central football might have to go behind the bleachers or back to the Central practice field but our intent is to keep them at Gill.

Alderman Gatsas asked if those two items are being addressed and obviously I am looking at some sheet that you passed out that said lights and people that clean up...are you looking for direction from this Committee on whether you are going to keep it in the Enterprise fund or whether it is going to come into the general fund? I guess we need to find out...I guess you are giving us these numbers that say this is what we need to survive as an Enterprise fund but I guess I need a clearer explanation of what I see before me.

Mr. Ludwig asked are you looking at the sheet that says "Office Copy" in the left-hand corner.

Alderman Gatsas answered yes and I guess if I had it a little sooner I could ask you the intelligent questions.

Mr. Ludwig stated it is really not as complicated as it looks. This is basically the agreement that we came up with with the School District as I alluded to earlier in my statement. Remember I said initially that the Enterprise was actually charging out 95% of the operational expenses to the School District in the past. They were unhappy with that arrangement and two years ago in January when we did our budget presentation to them they asked us if we would look at alternative methods for them. They felt that they were a renter of the facility and did not want to be involved with picking up any debt expense related to what the cost of the improvements at Gill Stadium were going to be. We went back to the drawing board as a result of that and did some quick math and checked around to see how many other users there were and how many games were involved there and how many practices Central was there for. We did some calculations on square footage of locker room space, heat and those kinds of things and basically came up with a sheet that said if the School District was charged on a per game basis and also for practices their number would be what you see in the yellow highlighted area, about \$106,000.50 this year. Last year it was a little less. We came to Finance because that was going to have a direct impact on you, the Aldermen and the Mayor and the budget process. During last year's budget process it was determined that this was a more fair way to charge the School District and consequently the Aldermen and Mayor would have to add the difference or the shortfall for funding Gill Stadium into the general fund, which is what happened last year. That is the nuts and bolts of this whole sheet right here.

Alderman Gatsas asked do we charge the School District for West Memorial and Memorial.

Mr. Ludwig answered no. We would charge them for anything we do at the field in terms of when we go over and groom the field for them and things like that but in terms of the actual game situation, buildings are charged off of Public Building Services, things that are done for them there. We might do a little mowing, mulching and things around the facility for them.

Alderman Gatsas asked so this is a different comparison because it is Gill Stadium and if we don't want to call it Home of the Little Green then we charge them \$106,000. If they had their own facility like Memorial or West then there wouldn't be that \$106,000 cost to the School District. I am missing something?

Mr. Ludwig answered I think what you are missing is that the School District does the same calculation. They looked initially at the \$106,000 and said wow it is really a lot cheaper for us to play at Gill than Memorial because all they add up is the ticket takers and the ticket sellers. They don't add in things like depreciation on the debt expense that they have for those two facilities or electricity or natural gas or any other expenses that they have. They are only looking at the cost of the game where they have a couple of faculty members taking tickets and some police officers who are required to be there. So their expenses are probably...in fact I will say more than probably are definitely a lot higher than what you are looking at here for the use of Gill Stadium. They would like to have this arrangement two times over.

Alderman Gatsas responded so what you are saying is for them to operate at Memorial to play a football game is more expensive on a per game basis than Gill Stadium.

Rick Riddle, Parks & Recreation, stated both the City and the School Department each pay about 50% of the expenses for Gill Stadium whereas the School Department is paying 100% of the expenses for West Memorial or Memorial.

Alderman Lopez asked the difference when you are saying Gill Stadium pertains to all three high schools playing at Gill Stadium and the practice is only for Central. Would you clarify that and at the same time we have people that are at Livingston and they have in the school budget this year to put someone at West and Memorial so that is an additional cost to the School District to have somebody there? Could you clarify that and the difference between Gill Stadium and Memorial and West Memorial?

Mr. Riddle responded right now Gill Stadium is being...the City is reimbursing us for all of the not for profits. Basically we are getting \$1,100 per game for Sweeney Post, Babe Ruth and some of those like the Sabres who play games at Gill. So that amounts to us getting about \$110,000 or \$115,000 reimbursement from the general fund. The School Department pays us the same way. They pay us...next year we are budgeting \$1,150 per game and \$400 per practice, which means that they will pay us about \$106,000 to use Gill. In contrast, the only ones who use West Memorial as far as we know are the School District and they pay all of the expenses for West Memorial.

Alderman Lopez replied that is correct but I am trying to find out...Memorial and West use Gill Stadium and that is why that figure is high.

Mr. Riddle responded it is mostly Central.

Mr. Ludwig stated to answer that it will be the first year really that Memorial will be using their facility so we will really see the use of Gill in terms of number of events for high school go down because West and Memorial want to play at their own facility as much as they can. Obviously if Gill is available they are welcome to come there.

Alderman Lopez stated I need to clarify Central because that is a big part there and I agree as far as cost goes between West and Memorial but Central uses Gill Stadium to practice. Do West and Memorial play at Gill Stadium and does the School District pay any fee for it?

Mr. Riddle responded if West plays at Gill Stadium they would pay us for it. Like the Thanksgiving Day game they pay us for that. Basically they don't play regular games there.

Alderman Gatsas stated I guess I need to get a clarification. You said that if Legion or Babe Ruth play at Gill Stadium the City reimburses from the general fund \$1,100.

Mr. Riddle responded that is correct. This is the first year that we have done that.

Alderman Gatsas asked so what is Babe Ruth or Legion reimbursing...are they paying anything toward the use of the field.

Mr. Riddle answered it is a very small amount.

Mr. Ludwig stated no really Babe Ruth doesn't pay anything. The Aldermen are effectively subsidizing them to be there. We do charge for some lights and I think

there is a minimal field charge to cover the cost of the person but you are basically paying for them to be there – the Aldermen are.

Alderman Smith stated I can tell you that Legion pays \$75 a game and then \$25 for lights and if they use the lights before 8 PM it is \$2,500. That tells you what is going on.

Alderman Osborne stated I guess the bottom line here...which way is better in your mind. What is the difference? You can't rent or lease any space over there and you have to alleviate some of the high school playing and so on and so forth. Where are we?

Mr. Ludwig responded it is a philosophy that this Board has to undertake in terms of how they would like to see Gill used. I agree with your comment, Alderman Osborne in terms of based on the way we are using Gill right now for high school baseball in the spring up until mid-June and then Legion baseball takes over in mid-June and goes to about mid-August and then it is all high school sports. It doesn't leave a lot of prime time for us to market Gill in such a way that we could generate a lot of revenue. Now if there is a philosophical change that the Board of Mayor and Aldermen would like to implement we could probably do that. There are probably some other things that we could do to generate revenue. Quite honestly we haven't really had a season of a synthetic surface and there may be requests out there from some people who might want to come forward at this time of the year and use Gill. I actually had a call from Ed Gannon from St. Anselm's today who wanted to know if they could play a baseball game on Monday. Discussion in terms of how much we would charge St. Anselm's to use Gill Stadium if it was ready and it isn't quite, is another thing but typically when we get into those type of discussions with institutions like St. Anselm's there is in-kind service where they have allowed us in the past to say use their baseball team for certain teams and although they never said it they would probably be looking to come to Gill for either a very small fee or no fee.

Alderman Osborne asked how long has it been in the Enterprise.

Mr. Ludwig answered since about 1997.

Mayor Baines stated I have a very brief comment. We are going to be talking a little bit about the Enterprises during my budget presentation and some challenges and perhaps some opportunities. I really feel and I would like the Deputy Finance Officer to have an opportunity to speak on this issue, that our position and my position with the Finance people is that it is premature to make this decision. I think Ron, we have talked about it and he says well there are some good parts to keeping it in the Enterprise and some opportunities on the other side as well but I

think right now we have a brand-new stadium and a lot of people recognize that there may be some opportunities there. One of the things we talked about was there was some interest in professional soccer there but there are some problems or challenges with the mound because of the man hours it would take to take the mound down and put it back up. We know there is some interest there and I would just say again that we think it is premature to make that decision. Also recognize that we are going into almost a three-month budget process and we are going to be talking about a lot of things related to Enterprises and other funding. I would say also in that regard because I have to leave because I have some personal things going on right now but we have to be very careful not to commit the Finance Committee or the full Board at this time to anything until we look at the overall budget picture. It is going to be a challenge, as it always is, to keep the tax rate acceptable to all involved. Our position is to keep it as is right now. There is still plenty of time to look at it over the next few months but right now we feel that decision would be premature.

Chairman Forest stated I know that I have been talking about it for maybe those two years if not more. Alderman Smith has and I know some other Aldermen have been talking about removing Gill Stadium from the Enterprise fund. Alderman Smith just brought it up to us tonight. I know we have had a lot of questions and answers here tonight. I do have one recommendation and it all depends on if you guys want to make the motion that we table this for now and send it to staff and then have it come back to this Committee.

Alderman Lopez stated this has been sent to staff and this was a recommendation by the CIP Committee to get some answers. We waited for a long time and made a motion to send it to the full Board and the full Board sent it here. I understand what the Mayor is talking about and I don't have a major problem with it. I am concerned only about the capital improvement aspect. If we do put it under the City and he needs \$20,000 for water heaters over there or whatever the case may be with the new facilities over there as long as everybody understands that that comes out of the general fund and not out of the Enterprise because the Enterprise money is going to the Derryfield Country Club. If the majority of the Committee wants to wait and table this that is fine but I think we have the Finance Officer here tonight and if he can give us some input on why we should wait...I understand the Mayor gave us some but this seems like a wash to a degree and I am concerned in either case, whether it is in the Enterprise or it is in the general fund. I think the Superintendent is saying you have to help me. If it is in the general fund you Aldermen have to give me the money because I don't have the money. With that, if it is okay with you I would like to hear from the Finance Officer before we do anything.

Kevin Clougherty, Finance Officer, stated the concept of the Enterprise, whether it is Airport or any of the other Enterprises that the City runs is that they will be run like businesses. That was the whole idea. We brought before the Board of Mayor and Aldermen the concept of running parks as an Enterprise because we thought it had tremendous opportunity to enable the Parks Department to generate revenues and take on a lot of the things that they hadn't done in the past and I think that is what Alderman Lopez was referring to earlier. While our Airport runs as an Enterprise and Water runs as an Enterprise and EPD runs as an Enterprise we are really taking our Parks and running them under an Enterprise accounting operation but we still have a general government mentality. We are not using our parks as an Enterprise. We are not using our parks facilities as much as they can be to generate dollars on the revenue side. I daresay that most people in the City of Manchester don't even know that we have tubing at McIntyre. We don't market. You constantly see advertising and things on the television and capitalization of free spots on radio by the Airport and by our other Enterprises but we are not marketing our facilities so they are underutilized. Other cities are using their facilities to be revenue generators. When their JFK Coliseum is down and not available for ice time they are doing flea markets and making a lot of money doing stuff like that. When their parks aren't being used...if you go to some of the cities in Massachusetts they are running tournaments. They are doing these soccer tournaments. I think Dedham in one weekend over Columbus Day makes enough money on their soccer tournaments down there to fund their operations. We have great facilities and we have some not so great facilities but the way we are going to be able to make sure that we are able to get all of these facilities up to par and get better services for people is by running the Enterprise as a business and really being aggressive in terms of going out and getting people to use those facilities and really getting creative in terms of how those things are done. Our recommendation and I think what the Mayor was alluded to is to give staff some time to come back and we will make some recommendations on how you can utilize those facilities and get your revenue side up and make sure that you are going to be able to move forward. There is no reason why the Enterprise can't be everything that it was originally envisioned as. What it is going to take is a change in operations. Rick is doing the accounting and Ron has a lot of things on this table but there are ways that people can bring up ideas and help move this thing along so we can make this thing functional. If we make it operate as a business we enjoy the benefits of it operating as a business. We can use those revenues to do a lot of those things that Ron would like to do. I think we have made some progress. I think the structure is there and I think we have learned some things over the last couple of years and I would ask that you consider the original concept and run it as a business. If it isn't running as a business don't just discard it and say well we are happy to go back to the old way and the taxpayers are going to pay for it. I challenge you to take a look at the other direction and run it as a business.

Alderman Porter stated I think that it sounds good to run it like a business and get every penny we can and market and so forth but I think part of Manchester's success is and always will be and has always been that we have provided a lot to the public in the form of recreation. Some of the first few things anyone coming into the area wants to know is the schools, taxes and recreation. I think that to put it out as if this is purely a business we could charge people so much sooner or later this is going to pass on to the teams because the teams are going to be asking the kids or the parents to kick in and whether it is done that way or through the taxes I think one may be better than the other. It would appear to me that you have had some conversations with the Mayor. Who does the Mayor have in mind when he says have staff report? I am assuming Finance and Parks & Recreation?

Mr. Clougherty responded I would guess that. Just backing up I agree with you. I think one of the things that was so attractive about this idea is you are right. There are things that we should be providing at low cost for our citizens and being generous in that regard is something that has been a hallmark of the City of Manchester but there are businesses and there are functions and people who are willing to pay and we have to make sure that we balance those. There is no reason why we can't be balancing our advertising and marketing and getting more revenue in for exactly what you are saying so that when people come to our City they not only ask what our parks are like and our schools are like but what our tax rate is and when they look at Enterprise operations they see that as a modern, forward looking City so I think that is what we are trying to do here. I don't disagree with you. It is a balancing act and we need to do a better job of balancing. As far as who he has in mind specifically, I don't know that. I know he has talked about the Office of Youth Services and some other groups that might be able to look at those facilities and how that can be done but I think that is something that you would have to ask him.

Alderman Lopez stated just to follow-up one of the major things...I think two areas that we have to make a decision on, one that is the top priority is the service we provide our youth in the City of Manchester by having Gill Stadium and how do we do that. Whether it is by more revenue or in this case subsidizing the Parks Department with tax dollars so we don't outcharge Babe Ruth or the American Legion. So your point is very well taken that we have to find maybe new ways.

Mr. Clougherty responded not just at that facility. You may be able through some of the things at these other facilities to do exactly what Alderman Smith wants to do and what Alderman Porter was talking about which is to provide a better subsidy arrangement there at no cost by making these others more efficient that are drags on the system.

Alderman Lopez stated the other point that I want to make, which I have seen so many times and I am guilty as an Alderman is giving everything for free for the political aspect of it. I think there is revenue to be made there to a degree, some revenue. I understand that charities have to make money but I think some revenue has to go to Parks and if we continue as Aldermen to give things for free then we are putting handcuffs on the Superintendent to make revenues. I just want to bring that point out also because it is very important.

Mr. Clougherty replied it is a balancing act and you have to be careful on that because as any business is aware you can price yourself out of the market.

Alderman Smith stated Kevin you probably don't realize how serious the roof condition is at Gill Stadium. We know that it is a very serious situation. That is why they couldn't put the lights on the roof. I believe that people are willing to pay a little bit for the service they get and I think leisure time is very, very important to keep the kids off the streets. Now there are probably 1,000 youth that use Gill Stadium each year and I can't see running Gill Stadium as a business. If you run it as a business you are going to have a semi-professional baseball team come in there and a professional soccer team come in there and our kids that we created Gill Stadium for will be playing back in the individual playground areas and I don't want that at all. I believe that we have an obligation to our youth to provide the best possible facilities just like education and I believe that Gill Stadium is a gem now and I would like to maintain it. If Ron doesn't have the money and he only has \$2 million and he has to take care of McIntyre Ski Area and the West Side Arena, etc. where do we go?

Mr. Clougherty responded I don't disagree with you, Alderman. The reason, as you know, that we were involved in the Gill Stadium project is for the exact reasons you talked about. My point is that Gill is better served being in the Enterprise because if the Enterprise is functioning the way it should and all of the cylinders are working...right now the country club and Gill are working better than the other elements. If those other elements were doing what perhaps they could be in terms of meeting their full potential the demand on the taxpayers to fix that roof will be less. I think it is a better operation and there is more opportunity to keep that facility at the level that we all think it should be if it is in the Enterprise as long as all of the other pieces are working.

Alderman Smith stated I have one last question. I have been trying to get staff to come up with a report year after year. I have been here for three and a half years and you know I have asked for it and nothing has been accomplished. Now we come to the budget process and everyone is in a panic and saying put it off.

Mr. Clougherty replied again my recommendation is don't put it off. My recommendation is fix it. Make it work as an Enterprise and whatever the resources are that are necessary to do that commit to it.

Mr. Ludwig stated I thought I heard Kevin say that the golf course and Gill are firing on all cylinders but some of the other areas, which would leave my two ice arenas and McIntyre as three areas that I would have to guess are not firing on all cylinders. I would strongly disagree with that. One of the reasons is again it goes back to the philosophy that this Board can either have or doesn't have to have. I am going to give you a couple of examples of ice rates across the southern tier of the state right now. Ice rates are ranging from \$220 to \$230 an hour for prime time ice. I rent ice to the Manchester School District through our service agreement for \$147/hour. Now I could make a decision to ask the School District to skate at 10 PM, 11 PM or 12 AM for \$147/hour and I may make some money and, therefore, I could move people in at 3 PM, 4 PM, 5 PM, 6 PM, 7 PM, and 8 PM for \$190, \$200 or \$220 an hour. That is a philosophical difference that this Board has to deal with. Right now we have 2,200 players – more than any in the Manchester Youth Regional Hockey Association than we have ever had. Over the last five years of a contract that I had with them, the first time in the history of the department that we have had a contract that went forward for five years, we have raised their fees 10% a year. Now I am not the numbers people that are sitting on the left and right of me and that may be a little misleading but I am honest so I will tell you why it is a little misleading because their numbers were very low not all that many years ago but because of the inception of the Enterprise these people have seen a 10% hit every year for the last five years and we are presenting in negotiations with them and some of the members of the Board of the Manchester Regional Youth Hockey have probably already approached some of the Aldermen to tell you that Ron Ludwig is trying to increase our rates again at the risk of the kids at the ice arenas. That is my job. I am just trying to make it fair. I look at a comparison of ice rates across the southern tier of the state and we are now surrounded by seven ice sheets when we were the only game in town three or four years ago. There are a lot of things we could be doing which include adding an additional sheet of ice at the West Side Arena but at a time when two sheets are built in Salem, two sheets are built in Exeter, three sheets are built in Hooksett and one sheet is built at the St. Anselm's ice arena, I don't really think it is the time to be expanding our ice arena. McIntyre Ski Area may be the best-kept secret in the world because we don't honestly have all of the money that we would like to spend, Enterprise or not, for marketing. We don't have people in place to do marketing and we don't have funds in place to do marketing. If we spent what we would like to spend on television as other facilities do we would be broke. Remember, the Enterprise, if anybody comes to me in the supermarket and says when are you going to add locker rooms on to the JFK Coliseum well it is very difficult to do when you can't increase the ice rates beyond a certain amount and

when you are selling prime time ice at \$150/hour when it is being sold across the state at \$200/hour because there is a philosophical difference here. We go out more than anybody and solicit donations from Coca-Cola. They recently bought us a \$60,000 Zamboni and \$20,000 worth of scoreboards at both ice arenas. We are the biggest beggars in the world on behalf of the kids in this City and we are going to continue to do it regardless of what anybody says.

Alderman Osborne moved to table the item. Alderman Gatsas duly seconded the motion. Chairman Forest called for a vote. There being none opposed, the motion carried.

Alderman Lopez stated I think this problem does have to be solved in the budget process this coming year.

Chairman Forest stated we are going to move to Item 4 now, which is the MCAM presentation.

Presentation of MCAM proposed contract for public television.

John St. Hilaire, Chairman, MCAM, Inc. stated MCAM, Inc. is a non-profit organization that was set-up to take over and operate public access television, channel 23. We have had many conversations with many of the Aldermen and with Alderman Lopez on the plan for MCAM and on the contracts. Originally we came in front of the Committee on Administration to deal with the possible employee issue and the contractual issues that were going to come up to actually get MCAM running. The employee issues have been answered and have been taken care of. It has been determined that a buy back for the employees is not necessary. There are many issues that have come up in the past that could have precluded that actually happening and the employees have no problem with going forward with MCAM as MCAM is being run or as public access is being run. The contractual issues, the agreements you all have in front of you. I actually have additional copies here as there were some minor verbiage changes that came to me via Tom Arnold earlier today. I would ask that these be passed out. Basically, the plan as it is being put forward would allocate initially \$350,000 from the equipment capital fund that was established by the cable company franchise agreement to purchase lease hold improvements and equipment for the operation of public access and PEG access television. It was agreed to and the number \$350,000 is what was put forward to MCAM based on the equal division of what was left between public education and government and when we looked at everything was agreed to by MCAM as a fair number. That is a number that was presented to us by members of the Board, some members of the Board and by Dr. Grace Sullivan. That \$350,000 on the proposed agreement would be released as soon as this agreement was accepted between MCAM and the City. That

\$350,000 would allow MCAM to go forward and to start putting together the lease on property and on equipment and ordering equipment and things that would be needed to actually begin operating the public access television station. On July 1 it is being proposed that an initial payment be made to MCAM in the amount of \$120,000. That \$120,000 would come out of the MCTV budget and would be used for administrative purposes to actually pay the employees' salaries, the electricity and the things that would be needed to actually fund public access television to begin it. By that point we should have our space. We should have everything in process and hopefully actually we should be pretty close to completion of the studios to transfer the equipment that would be transferred over to us. The funding of MCAM would be based on the Comcast or the cable franchise agreement. As you all know, the City receives 5% from the gross revenues of the cable franchise agreement. We have put forward that 1% of that 5% would be paid to MCAM. That would fund MCAM on a yearly basis. The way that we would determine the methodology used to determine the payment would be the previous four quarter earnings of the fiscal year ending June 30. So 1% of those earnings would come directly to MCAM and be paid on or before October 31 of that year. That is how MCAM would operate on a yearly basis. The \$120,000 is a one-time stipend understanding that basically MCAM with the funds that are received is going to be funding public access for 16 months at the outset. So that \$120,000 that you are giving us up front, while it may look like you are giving us more it is really just equaling us out to pay for the additional four months before we receive our first year funding effort. The contract, I believe, that you have in front of you has been agreed to. We have talked to Tom Arnold and we have been in contact with Randy Sherman to make sure that the funding and everything that MCAM would do is going to benefit the City and is going to benefit public access TV and is not going to leave anybody out there hanging. We believe that this is a fair agreement and would allow public access to move forward. It is going to do exactly what it needs to do. It is going to relieve some pressure off of the MCTV studios. Currently as you know public access operates 50% of the time that the studio time is available. 50% of that goes to public access and the remaining 50% is split between education and government. Also because public access right now is operated out of the School Department out of the Manchester School of Technology, that means that that facility is left open for access to the public access television station by just normal lay people and public access producers. It is the only school facility that is actually open to the public that is not under lock and key so it is a security issue. As well as eliminating the immediate expansion need, you are removing public access out, which is eliminating some burden on education and government. It is freeing up some space that they don't have right now. You are helping to secure the school and you are taking the liability issues that come with public access and those leave the City of Manchester and would be transferred where they rightly belong, with public access and MCAM who would be operating it.

Chairman Forest stated Randy Sherman and Tom Arnold are here to discuss the contract.

Alderman Lopez stated I think we can ask questions of Randy and Tom Arnold on the total agreement. The primary concern that I had is in reference to the budget that was presented by MCTV so that there is a clear understanding of whatever that budget amount might be. I don't know what the Mayor has in his budget but for sake of argument if it is \$473,000 or \$450,000, \$120,000 of that would come off the top in order to fund the \$120,000 to MCAM. As my correspondence dated March 16, 2005 indicated the \$350,000 would be immediately available to MCAM so that they can proceed and then the revenue is worked out with Randy Sherman. With that, if you want Randy to speak on that go right ahead.

Alderman Osborne stated the last time we met I think we were talking about the lease term and I think you mentioned five years. I was asking about three years and you had a good excuse for the five years and bringing all of your equipment over there and I can see that. Now I see in front of me ten years.

Mr. St. Hilaire responded it is based on the length of the cable franchise agreement. Public access television in no way is ever meant to come back to the City. That is not what the intent of it leaving is. So basically what we did is this contract is based on the current contract that happened in 2000 I believe and that is what the length of our contract is based on. It is just based on that contract.

Alderman Osborne asked Mr. Arnold, on the termination can you elaborate a little bit on it. It is #17A, #3.

Thomas Arnold, Deputy City Solicitor responded certainly. I would first note that this agreement is in form based on an agreement that I sent over to MCAM some years or maybe not a year ago. It does have several significant differences from what I sent over, which are really policy decisions for this Committee and the Board to make. The first was the term. I had left the term blank. Ordinarily I think the Committee would go with one or two years or a little longer. This is a ten-year term. In addition, in my original agreement basically funding was going to be provided to MCAM by a yearly appropriation. This agreement provides that funding will be provided as a percentage of the franchise fee that is collected by the City from Comcast. That is over the entire 10-year term of the agreement. In addition, to support that my agreement called for MCAM to provide a proposed budget along with its annual reports in Section 14 but I could be mistaken. The last significant change was that my agreement provided that the City would own the equipment that MCAM was using. This agreement of course provides that MCAM will own the equipment but if the agreement should be terminated or if

MCAM should be dissolved, that equipment would come back to the City. To get to your question, Alderman Osborne, the termination provisions essentially provide that the City could terminate this agreement if MCAM breaches any provision of the agreement and they don't do something they are supposed to do or do something they are not supposed to do. That is in very general terms. It also provides that it can be terminated if there is any malfeasance such as misappropriation or misuse of funds provided by the City. Thirdly, the 501C-3 status is IRS tax-free status. If they were to lose the tax-free status the City would have the ability to terminate the agreement prior to the 10-year term.

Alderman Osborne asked is the City held liable in any way to the lessor.

Deputy Solicitor Arnold answered no. The lease for the property would be between MCAM and whoever the property owner is. The agreement does have a provision saying that there is not any relationship between MCAM and the City and that MCAM is an independent contractor and certainly not an agent, employer or any other type of entity of the City.

Alderman Osborne asked so what you are trying to tell me is that the lessor would have to go after MCAM. Is that what you are saying?

Deputy Solicitor Arnold answered yes.

Alderman Gatsas stated Mr. St. Hilaire it seems as though we rehash this issue every year at about this same time and for some reason the Aldermen think they have a deal, the deal goes away and it comes back in another form. Are we posturing this year or are we serious about doing something because last year we sat down and went through this same situation, carved out a budget, carved numbers out of a budget that we had, moved money from MCTV and tried to incorporate what was going to happen with the employees and who was going to insure them right down to the retirement system and whether they were going to remain employees and who was going to be their liability and now we are into a situation where you are back again looking for 1%. I think the City has been very clear with its funding. Come to us and we will budget you. Not a percentage of cable rates because those rates belong to the taxpayers of this City as far as I know because I negotiated that contract. MCTV had a 1% in there that disappeared and they come before us with a budget and I don't think that MCAM should be any different than the way we treat MCTV. With that being said, I guess we need an answer. Is this just a fishing expedition or is this for real this time?

Mr. St. Hilaire responded this is for real, Alderman. The reason we are here now is because we have answered every question, dotted every i and crossed every t that has been put to us. Every time that we approached with what we thought we

had been asked for something else was asked for. After we went through all of the due diligence for the employees, for the payroll, for the benefit issues and things of that nature, it was obviously assumed...by the time we had gotten to that there was just no time and we needed to actually put together a complete agreement that the Board of Directors of MCAM would be willing to go forward with. Based on what the Committee on Administration put before us the last time we were here as far as the employee issues and the contractual issues, we met many times with Tom Arnold and with other people to get all of the questions, all of the legal questions answered, which we have done. We are here now to say this is our plan, this is what we are presenting and to pass this so that we can actually start running public access. We are ready to go. MCAM is ready to go.

Chairman Forest stated I think Mr. St. Hilaire is probably right. This is something that this Board had directed them to go back on. That is why we tabled it to have them work with staff. I think Randy can explain the financial part of it.

Alderman Gatsas asked when you say tabled, this is a new agenda item. I think that the make-up of this Board was the same make-up that was here last year that voted to go forward and said bring a budget to us and that the equipment that you were going to get or the funds that you were going to get those funds were going to be City owned property. I think the same Board voted that and it was a unanimous vote that said...you came to us originally with 1%. You came to us originally with owning the equipment and I think this Committee voted out saying that it was going to be a straight budget number and that the equipment that would be coming out would be owned by the City. I don't know if you have talked to members of this Board and they have changed their mind. I understand how the votes are and if you have three of them you have enough and if you have eight of them on the City side you have enough. I don't know if that has changed since we had that discussion here in a year but I guess obviously it must have because you have been given a different direction than what I understood.

Chairman Forest stated I know that they have been before this Committee at least three times and three times we tabled it and sent them back to work it out. I noticed that it is not on the table now and how it got off the agenda I don't recall but they are back here and I guess they have straightened out all of the bugs with the staff and they are back here to make their presentation. Randy, can you explain the financial part of it and how they got to where they are now?

Randy Sherman, Deputy Finance Officer, responded I am not sure I can answer that. What I can tell you is we have reviewed the agreement at the Finance Department. The agreement is certainly workable from our end. I think you have the adequate protections as far as the equipment ownership and I think you have the adequate protection as far as insurance and terminations and your audit

abilities. The agreement clearly is workable from our end. We had some discussions on how we thought the funding should work. Our preference is not what is in here but we clearly understand that they have cash flow issues and that is why I think as they stated they are really looking for 16 months funding because that is the way the dollars come in from the cable fees. The only thing that I would alert the Committee to is clearly this does have a budget impact over and above what you have seen in the past. By taking out that 1% of the revenue that reduces the revenues that you have in your operating budget and that will have an impact on your FY06 budget and any budgets after that. I know that this is just a Committee report and it will have to go to the full Board but again like the Mayor addressed on the Gill Stadium issue you clearly should maybe get a clear understanding of the budget going forward before this is adopted so you do understand that full impact.

Alderman Roy stated I am sorry to say I have four issues with this agreement. The first one is what is not in the agreement, which is long-term sustainability of the Board of Directors. As I look at something like this whether it is founding a non-profit or a company it is who will be running it not only today with our selected MCAM Board of Directors but how they will be chosen in the future and that is a question that I will put to John or Arthur or Lou.

Mr. St. Hilaire responded as far as the Board of Directors go the by-laws that have been adopted by MCAM are there to protect them. We have made an amendment to the by-law that would allow for a member, an appointed member of the Aldermanic Committee to be appointed to the Board of Directors of MCAM to help with any concerns you may have on that. As far as the elected officers, an elected official in the top four positions may not hold that position for a period greater than two years. It does not prohibit that person from remaining on the Board of Directors in a different position. The Board of Directors are elected on an annual basis so I think that most of the concerns you have have been addressed in our by-laws.

Alderman Roy stated in paragraph 5, sub paragraph 4 and this may have been something that was originally in our agreement regarding the cablecaster's errors and omissions insurance I look at that as free coverage for producers to do many of the things listed out – libel, slander, copyright or trade mark infringement, infliction of emotional distress...is there a way to limit MCAM's liability in going forward with producers. It looks like MCAM is putting a nice umbrella over the producers and covering them for any of their mistakes.

Mr. St. Hilaire stated as a corporation it is important that we have that umbrella to protect ourselves. One of the by products is that it does protect the producers. One of the things that the Board of Directors at MCAM would entertain and would

work on in the future is how the liability issues are dealt with on a producer level. Those are areas that we have not broached yet and until we become an actual operator for public access it is kind of like putting the cart in front of the horse so to speak but they are issues that are on the table that will be addressed once MCAM proceeds forward.

Alderman Roy stated on Section 14, Annual Report, it says on or before July 1. When this makes it to the full Board I would love to see that brought back to February 30. The audit will take 90 days and then another 60 to produce an annual report. That would give it to the City prior to budget season, which may help out in the future. Then Section 16, paragraph A, Maintaining Records you have three years with storage and right now at a minimum ten years would be something I would love to see.

Mr. St. Hilaire responded actually federal law is seven years so we would go at least seven years.

Alderman Roy replied you had three in the contract though.

Mr. St. Hilaire responded I realize that but I would imagine imagine that federal law also supercedes any local agreements here so the federal laws...we would be a minimum of seven years. If you need to amend it to ten years I think we can go there. I don't know if there is really a need to go back ten years. I think that the federal statute and I believe the federal statute reads that if indeed there are problems found then they can go back indefinitely. As far as your fiscal year ending, based on the funding and the time that the funding would come, MCAM, Inc. is going to adopt a fiscal year ending September 30 so actually with the revised paperwork that I handed out, which you may or may not have, it changes that reporting period to 90 days from September 30, which is our fiscal year which is when annual reports come out so you would have all of that information by February for your budget year. I guess that would answer that question positively.

Alderman Lopez stated I just want to set the stage here because I don't want any of the Committee members to feel that...I know that I have been called by the corporation and I remember talking about this plan and this has been an ongoing process as was indicated. It is nothing new to me because I have had many conversations with the MCAM people. I think it was said that there is insufficient space that MCTV has. I have said on a couple of occasions do we meet the requirement we have for public access. Yes we do. There is no question about it. We meet the requirement of the federal laws that we have it at MCTV but it has always been that there is not enough space or enough room, etc. Does the City get anything out of this? It provides public access TV. This would give them an opportunity to move forward and operate accordingly or maybe do a reasonable

period of time. The money that I have always talked about was \$120,000. That is two employees' salary and benefits from MCTV. Whatever the budget number is, this year it will be \$120,000 less because they will go from six employees at MCTV down to four and MCAM would move two employees over there and whoever moves over there is not my problem. The other aspect is that I have had many conversations with the Committee that was appointed by the Mayor and given to the Board of Mayor and Aldermen to solve the problems as a Board of Directors and what was the best advice they could have. The best advice was to separate. I don't think that we need to say give me a budget every year. I think that we are providing public access. There will be opportunities for them to raise more money. It is a one-time thing. The \$120,000 for the employees and they have to move on in life. If something happens it is going to come back to the City because it has to come back to the City if they can't fulfill the obligation of the contract. I would like to call upon Senator D'Allesandro who is on that committee to make some comments because I think it is very important that we keep an open mind as to what we are trying to accomplish here.

Chairman Forest stated before Senator D'Allesandro comments I believe, and correct me if I am wrong, but I think there were going to be three employees not just two.

Mr. St. Hilaire responded it is two. In our budget that you may have seen and in the work that we had to get us to this point within the first year we see public access growing to actually three and a half employees but leaving MCTV it is going to be two employees.

Alderman Osborne asked what does this 1% involve the first year.

Mr. Sherman asked the dollar amount. Based on what we anticipate that we are going to get this year, it is roughly about \$220,000 or \$230,000.

Senator Lou D'Allesandro stated thank you very much. Mr. Chairman and members of the Board of Aldermen first of all many thanks for taking the time to hear us this evening. I certainly appreciate it and on behalf of the members of the Board who are sitting here who have really done yeoman work coming to meetings and trying to connect with the Aldermen to try to put this together I think it has been a very wonderful civic project. I must say that June Craig has to be considered one of the great organizers that I have ever been associated with because I get hundreds of e-mails from her and I get minutes of meetings from her and all of this is done for nothing. So the time and effort spent by everybody on the Board is appreciated certainly by me and I think by the City. The problems that have been articulated I think are quite clear. I am a producer on public access and obviously working at the school is problematic. You have three entities

working at the same time and the availability of time is really a critical issue. As a result of that sometimes it is very difficult to do a program because of the number of people who want to do it and the time constraints put on people. I think secondly the physical space at the School of Technology could be better utilized in terms of the educational process – more students becoming involved in the program because it does provide an excellent access for those who would like to go on to post-secondary education and get involved in communications. I think Grace Sullivan does an outstanding job there. The putting together of the 5013-C so that a not-for-profit corporation under the federal laws was set up was a step in the right direction in terms of giving credibility to an entity. Once that 5013-C recognition is given by the federal government, you have an organization that does have credibility and it has standing with the IRS and as a result of that has the accountability that you want as far as the City official is concerned. So I think all of those things have been put together. The Board has met consistently to try to address all of the concerns of the Aldermen. Outreach has taken place in terms of connecting with individual Aldermen and groups of Aldermen on a person-to-person basis. I know that June Craig has worked out those meetings and others have been at those meetings. That has been an ongoing process. So the contact and the interchange of information I think has been a consistent item and people have worked diligently to try to do that. What everyone I think is looking for is the best possible solution a) to provide more access to the public and to do it at a reasonable cost within the confines of the dollars that are available. I think people have worked very diligently to try to achieve that. Certainly you want accountability. You want accountability to the Board and accountability to the basic governmental authority. By the same token you would like accessibility to as many people as possible so that this wonderful amenity can be used to the greatest possible advantage of the public. That is the role that I think people have played in terms of trying to develop this. In addressing Senator Gatsas' comment I think it has been an ongoing process. I know that people have been here time and time again and I think people given their due they have tried to respond to queries that the Aldermen have and have tried to resolve those queries and that is why we are here this evening, to try to address those concerns and move forward. Again, thank you for taking the time to listen to us. I certainly appreciate it and hope that we can move forward.

Alderman Gatsas stated I know that I will find what I am looking for. It may take me a little while but I am like a pack rat. Everything is under here. Based on the discussions that we had from last year I think it is important that we understand the process and why we had the discussions last year. MCTV, who has been around for awhile, comes to us for a budget. The \$1 million that we had negotiated from Comcast was put into an account. Before they could spend a nickel they had to come to this Board for approval of any equipment. I don't think that anything was ever refused to them or anybody ever put up a red flag. I

certainly appreciate...I am not looking to micromanage what you folks do within your industry because I hope great success for you but I think you should be no different when you are looking for taxpayers money. You should have to come to this Board and it shouldn't be an allocation of just giving you an amount without any jurisdiction from this Board. We didn't do that with MCTV. Their 1% disappeared very quickly from the last negotiated Comcast contract.

Alderman Lopez stated I don't believe that that is the way it ended up. I think that MCTV can spend their capital improvement money without coming to us and I would like to have clarification on that.

Alderman Gatsas stated I certainly would like it because I know that I made that motion when that \$1 million went in there and if that has changed I certainly think they had to address coming to us for those funds. I see Dr. Sullivan out there shaking her head yes.

Chairman Forest asked can either Randy or Deputy Solicitor Arnold answer that question.

Mr. Sherman stated all I can say is that I know we have it set-up as if it is like a CIP project but whether there are any restrictions on whether Grace has to come back to this Committee or not to spend those funds I couldn't say.

Chairman Forest asked Dr. Sullivan can you answer that question.

Alderman Gatsas stated I know that motion was made originally that they had to come back here and those funds stayed here and I know that was a great discussion between Dr. Sullivan and myself.

Dr. Grace Sullivan responded right. We have been doing this a long time. What happens now is if we need a piece of equipment like the digital transmission system, we put in the requisition and ask my supervisor to approve it, the Superintendent, and then that fund item goes over to the Finance Department for approval and they sign-off on it. That is what we have been doing.

Alderman Gatsas replied right but I think you were supposed to have this Board's approval. I don't think anybody has ever questioned that and I am not looking to question it now but I don't think that anybody should just allocate \$350,000 without somebody signing off on something here at the department whether we just send the new entity \$350,000 and there is no supervision asking Finance to cut a check for whatever you are buying I have a problem with that because those are funds that we had allocated. There is no question that when we talked about it the allocation of those funds should be such that we were here. I know the discussion

that we had and correct me if I am wrong because I don't think anybody allowed you to answer the question I asked you. When you were here a year ago we had these same discussions and those discussions were based on an amount of budget that you would come before this Board. Am I correct or did I miss something?

Mr. St. Hilaire responded the task that we left this Committee with was the issue on the employees and the contract. I do not believe that the budget ever became an issue before this Committee. When we made our initial presentation we had talked about it and you voiced your opposition to what we were putting forward at that point but that was never...we left this Committee and I guess our charge when we left this Committee was to seek out the issues and to correct any issues with the employees and the benefits and administration thereof if it could be worked for a buy back through the City and to work out with the City Solicitor's Office a contract that would be amicable and that would work for MCAM as well as for the City and make sure that all interests were protected, which is what we have done.

Alderman Gatsas stated right and I think the City Solicitor made a very clear statement that the original contract that he gave you had an allocation for a budgeted amount and you would come before this Board for the allocation of the \$350,000. Am I right, Tom?

Deputy Solicitor Arnold answered yes.

Alderman Gatsas stated that is exactly what this Board had told you to send them as a contract for them to review. Is that correct?

Deputy Solicitor Arnold responded I don't remember where that direction came from. I know that when I prepared the first agreement it was based on the Board making a yearly appropriation to MCAM or whoever the provider was going to be.

Alderman Lopez stated I think we are all saying the same thing and I just want to clarify something when we say come back to this Board. Clarification that a) the money is in the CIP capital improvement and b) if MCTV wants to spend it they have somebody sign-off whether it be the School Department or Finance that the money is being spend appropriately according to whatever the money can be spent on for capital improvement, leasing or whatever the situation may be. I think this is the same situation that we are really saying that MCAM has to do. They just can't spend the \$350,000 any way they want. It has to be to what is appropriated for as far as spending the \$350,000. Now Randy Sherman or Sam Maranto or Bob MacKenzie is going to have to sign-off saying that what they are doing with the \$350,000 is correct and that they are not going out and buying hamburgers. I think the process is there.

Alderman Lopez moved that public access from MCTV be transferred to MCAM, effective July 1, 2005; that the Board approve an agreement between the City and MCAM and further authorize the Mayor to execute same on behalf of the City, subject to the review and approval of the City Solicitor; that \$350,000 be transferred from MCTV (CIP) to MCAM upon execution of such agreement; effective July 1, 2005 transfer of \$120,000 from MCTV's 2006 budget to MCAM (creating a special line item for MCAM); and annual payment to be made to MCAM, Inc. on or before October 31st out of the first quarter cable company's revenues based on 20% of the previous four (4) quarters ended June 30th of each year that this agreement is in force.

Alderman Porter duly seconded the motion.

Alderman Porter stated I am a little confused. Was the question actually answered on whether Dr. Sullivan has to come back to the Board? From what I am understanding you do not. It goes to the Finance Department as more of an auditing routine to see that the money is spent on the proper type of items that qualify under that expenditure.

Dr. Sullivan responded it is a CIP fund account policy that we operate under.

Alderman Porter asked why does it go to the Finance Department other than that they cut the check.

Dr. Sullivan answered because the City...even though MCTV PEG access is operated by the School District, the funding comes from the Aldermen when they set the budget.

Alderman Porter asked but it doesn't come back to the Board of Aldermen.

Dr. Sullivan answered not every time I need to buy a camera, no.

Alderman Porter asked is there any reason why this wouldn't be set up the same. Would this be set up the same way so somebody from the City would have to sign off on that money? I believe Alderman Lopez said that is the case but I just want to have it clarified. Is it or isn't it?

Mr. St. Hilaire answered not the way the contract is written now. I should let Deputy Solicitor Arnold answer.

Deputy Solicitor Arnold stated the way this contract is presently written, they are given the grant and the money is restricted to facilities and equipment as it is in the cable television renewal franchise. There is no provision that calls for a City

employee I guess to either cut a check or okay a particular expenditure. It is just limited as to what it can be used for by the terms of the agreement.

Alderman Porter asked and who oversees that. Who would be overseeing the contract?

Mr. St. Hilaire answered MCAM and I guess the Finance Department on a yearly basis when they would receive the audit from MCAM based on the contract that was here that would be supplied. A full auditing of its expenses on its annual report for the funds received and how they were expended and so forth. May I also answer the question that keeps coming back? The biggest reason that MCAM is here is to separate public access and the liabilities of public access from the City of Manchester. The Board of Directors of MCAM are the ones that are accepting the liability and going forth entering into the long-term lease agreements and so forth required to run this type of a business.

Alderman Osborne stated there seems to be a lot of ifs, ands and buts between us. Is there a timeline on this? This is right before the budget. Is there a timeline on when you are to lease the property or anything like that?

Mr. St. Hilaire responded we are ready to go. As soon as it is approved we start.

Chairman Forest stated I think that question has been asked every time they come here. They wanted to do this July 1 last year.

Alderman Osborne stated I have no problem with the separation. I am just looking at a couple of other things here. Alderman Gatsas had some questions and Alderman Porter seems to be a little confused on a couple of things and so on and so forth.

Mr. St. Hilaire responded that is why we met with a lot of Aldermen individually to try to answer a lot of these questions and we reached out to all of the Aldermen to meet with them. However, understand that when we started this whole thing a year and a half ago we were led to believe by a letter that we received from the Mayor that everybody was on board with this and we already went through and looked at leasing properties and put together agreements only to come before the Board when we were ready and thought we were all set to go after we initiated the 501C-3 process and were approved by the state...we came to you and that is when we found out that nobody knew what we were doing and nobody was aware of what we were doing. So we basically started the process all over again. We lost the initial lease that we were looking to get into for the property and it was this Board's direction that stated that we needed to run this the way we would run a normal start-up business, which was to answer all of the contractual questions and

get the budgeting process set up to make sure that we were on track by the Board of Mayor and Aldermen to actually take over public access when and in such a time as we entered into an agreement that MCAM would be chosen as the public access provider for the City of Manchester. At that point we would go forward with our leasing, which is what the \$350,000 release up front will allow us to do. The purchase of equipment that is necessary and to enter into the long-term lease agreements that are necessary before we can even begin studio fit-up and operations on a project of this size.

Alderman Osborne asked is this the same property you were looking at at the very beginning.

Mr. St. Hilaire answered that property is no longer available. We will be looking at other properties.

Alderman Osborne asked so you haven't found someplace yet.

Mr. St. Hilaire answered no. There is no need to expend that energy when we don't even know that we are running public access yet.

Alderman Lopez stated I don't believe that there is an Alderman on this Board who doesn't understand this whole process of public access going to MCAM. We have been talking about this for a long time. I would like to move the question.

Alderman Gatsas stated let's understand something. From this Alderman's point of view, I am not opposed to MCAM. I think I was instrumental in moving that forward last year because we had a budget...I think it was Alderman O'Neil that we were ready to move this forward in the budget process. The contract that you had before you was that you were going to come before us for a budget. There was no 1% discussion. That is what you originally came forward with. The Board decided that you would have a budget from the City. Now if the City is not going to be at risk I guess I ask you the question on A 5 why is the City named as additional insured?

Deputy Solicitor Arnold responded that is standard language that the City uses to make sure that the City does not face any liability or risk that it is not protected against.

Alderman Gatsas stated let me make my point very clear. I am in favor of MCAM. I think there needs to be oversight of \$350,000 that is taxpayer's money because I believe that everybody on your Board is very honorable and very honest. If we made MCTV go through that same CIP budget process you folks should be no different with taxpayer's money. You should come before us for a budget

because if tomorrow somebody decides to leave you an endowment of \$400,000 a year than maybe we don't as a City have to fund you because you would be there and have the ability to go forward. I would hope that this is what it is all about – about you folks being a non-profit and being able to go out and sell advertising to create some sort of revenue stream so the City wouldn't have to fund it for an eternity. If that is not what the game plan is and that is not what we are all talking about because I understood when you came before me or came before this Committee the last time that those were some of the things you were talking about. Am I correct or incorrect?

Mr. St. Hilaire responded you are 100% correct, Alderman and understand that in the budget and in the funds that the City would give to us...not give to us but that would come out of the franchise agreement in the funds that are awarded to MCAM they provide for the administration and the ongoing of public access television as it is today. If you look at our budget, our budget is actually to fund three and a half people at the end of year one. The money that is received from the City does not fund three and a half people. That money would not go that far but in order for public access to improve and for public access to do what it is going to do and what it should do for the residents of the City of Manchester we are saying that the funding...the 1% is fair and is based on precedence. It is based on the precedence of Lowell and of just about every other PEG access television station across the country. They are all funded with the cable franchise fees and receive funding directly from those fees based on a percentage. Our budget is based...1% is based on today's dollar operating on the level that public access television is currently operating under. The additional growth – we are not coming to the City for our budget. The additional growth is through fundraising efforts and grants and other avenues that are available to MCAM as a non-profit organization.

Chairman Forest asked the Clerk to read the motion.

Deputy Clerk Normand stated the motion by Alderman Lopez is as follows: that public access from MCTV be transferred to MCAM, effective July 1, 2005; that the Board approve an agreement between the City and MCAM and further authorize the Mayor to execute same on behalf of the City, subject to the review and approval of the City Solicitor; that \$350,000 be transferred from MCTV (CIP) to MCAM upon execution of such agreement; effective July 1, 2005 transfer of \$120,000 from MCTV's 2006 budget to MCAM (creating a special line item for MCAM); and annual payment to be made to MCAM, Inc. on or before October 31st out of the first quarter cable company's revenues based on 20% of the previous four (4) quarters ended June 30th of each year that this agreement is in force.

Deputy Solicitor Arnold stated I want clarification. Does the motion include approving the agreement that is presently in front of them?

Alderman Lopez responded yes that is my motion.

Deputy Solicitor Arnold replied I would just make a quick note that there will be some minor tweaks to this agreement. I, today, received a copy of a letter from counsel for the School Department basically asking to be added as a named insured to the insurance indemnity provision. There was some language that I had inserted providing that MCAM could not dispose of equipment without the written consent of the City. We wanted to modify that so they could essentially trade in equipment if they found it advantageous and purchased new equipment without approval. So those minor tweaks we will make if it meets the approval of the Committee.

Alderman Lopez stated I agree with that.

Alderman Gatsas requested a roll call vote. Aldermen Gatsas and Osborne voted nay. Aldermen Porter, Lopez and Forest voted yea. The motion carried.

Mr. St. Hilaire stated thank you. I appreciate all of the effort that has been put into this and look forward to a future relationship.

Chairman Forest addressed Item 5 of the agenda:

Communication from the Director of Parks, Recreation and Cemetery requesting the fair license be waived for the City's Independence Day celebration at Arms Park on Sunday, July 3, 2005 (rain date of Tuesday, July 5, 2005).

On motion of Alderman Lopez, duly seconded by Alderman Porter it was voted to waive the fair license fee as requested.

Chairman Forest addressed Item 6 of the agenda:

Communication from Jay Barclay, owner of the Purebred Hot Dog Eatery, requesting consideration of amendments to the current Peddlers licensing requirements.

Alderman Lopez asked Matt could you shed some light on this.

Deputy Clerk Normand responded this request initially came from Stephanie Lewry of Intown Manchester and also there has been discussion for several years

actually with Intown and then most recently two representatives from the Purebred Hot Dog Eatery, which is located next to the Black Brimmer approached us with Stephanie. We had a couple of meetings and they are requesting that the peddler's license fees be increased. Initially they were looking to have it equal to what the lease rates are for the spaces downtown, the commercial spaces downtown, and certainly our office disagrees with this. Another consideration was to expand the buffer zone so to speak between businesses selling similar items from 50 feet to 100 feet. So a current peddler located in front of the Black Brimmer, for instance, who sells hot dogs would have to move out of that space because he is within 100 feet of this Purebred Hot Dog Eatery. So they are looking for those two items. They are looking for an increase in the fees that we charge these vendors and also an increase in the buffer zone between establishments.

Alderman Lopez stated these hot dog stands have been around for quite awhile when nobody was around right.

Deputy Clerk Normand responded that is correct.

Alderman Lopez asked are we saying increase their fee or they have to move.

Deputy Clerk Normand answered they are asking for both. The City Clerk's Office is not asking for either.

Chairman Forest asked is there a recommendation.

Alderman Lopez stated I think we need more information. I am not too enthused...I mean hot dog stands are part of the community. They have been on sidewalks before. I would like to have more input from Intown or other people on this as to whether this is the right way to go. I wouldn't want to arbitrarily just say hey you can't be there now when they were there before and just because now the economy is good we are going to throw them out.

Deputy Clerk Normand stated I would just note that in the two meetings that I had recently with Stephanie Lewry I did the research on what other communities are charging their peddlers to make sure we are in line. We are either equal to or exceed what other communities are charging. That was done...many of these communities like Keene and Nashua have copied our ordinance so we are either identical with cities our size or exceeding them. As far as the fees go, I would strongly discourage the Committee from raising the fees. I think if we go that route we are going to eliminate the vendors.

Alderman Lopez moved to receive and file. Alderman Porter duly seconded the motion. Chairman Forest called for a vote. The motion carried with Alderman Gatsas being duly recorded in opposition.

Chairman Forest addressed Item 7 of the agenda:

Communication from Linda Cavanaugh, President of LMC Automotive Transportation, Inc., requesting a change in towing charges.

Alderman Lopez moved to table.

Deputy Clerk Normand stated I would like to note that Linda Cavanaugh is here tonight if you have any questions of the industry.

Alderman Lopez stated well if there is somebody here we should probably hear from her.

Alderman Gatsas stated I didn't think we could discuss a tabling motion.

Alderman Lopez withdrew his motion to table.

Linda Cavanaugh, President of LMC Automotive stated I am here on behalf of myself and several of the other towing companies. Initially the rate was structured because there was abuses in the City of Manchester who was astronomical in their rate of illegally parked vehicles. That was probably 12-15 years ago. Today the price of equipment to do this type of tow averages about \$75,000 and towing costs are about \$10,000 and this is a tow that is not necessary. We are not talking about a stranded motorist or somebody who has been involved in an accident of something of that nature. What we are talking about is somebody who is an abuser in the City of Manchester and using somebody else's facility to park knowing full well that they can walk a little bit or pay for metered parking and choose to use somebody else's property for their convenience. The tow X amount of years ago, whether it be 12 or 15 years ago was \$50. What we would like to see is \$110.

Alderman Lopez asked why the figure of \$110.

Ms. Cavanaugh answered because of the cost of equipment, insurance rates, worker's compensation, you have to have a storage facility and that facility has to be insured, there has to be staff. Unfortunately we are a necessary evil and again this is something that is not mandatory, it is not necessary. Somebody is simply parking at another person's facility and utilizing that space.

Alderman Lopez stated I think when we talked about the fee for towing for an emergency it was because we had two locations where people had to tow and there were expenses for that and now you are saying the opposite. Am I reading you properly?

Ms. Cavanaugh responded what I am stating is that when we go out for an illegally parked vehicle for private property, not a City police tow or anything like that.

Alderman Lopez asked so it is a non-emergency.

Ms. Cavanaugh answered it is a non-emergency tow. Exactly. This is somebody who is utilizing somebody else's property for their own use. They are just not taking the initiative to park in metered parking, go to a parking garage or whatever. They are simply parking because they want to. They are aware that they are using private property and they walk away and then the owner or the manager of that property will call and say could you remove this vehicle so their customers can utilize that space.

Alderman Lopez stated I would like to have the Traffic Committee weigh in on this because they usually handle all of this instead of the Administration Committee. I understand your point but \$110 to tow a vehicle...it is bad enough in an emergency but we are going to tell you it will cost \$110 to tow a vehicle just because they are illegally parked in a driveway or on somebody's property? That is what you are telling me I believe.

Ms. Cavanaugh responded yes I am but I am also saying that the cost of equipment today, the cost to staff it, the insurance, the liability, should we tow an illegally parked vehicle...we are requested not to charge for the first 24 hours.

Chairman Forest stated the Clerk has an explanation as to why it is in this Committee.

Deputy Clerk Normand stated I would just note that the reason this is here tonight is the last amendment to this ordinance was done at this Committee level, as well as the companies that are involved in this type of tow are licensed through our office and this Committee deals with licensing requirements. That is why it is here. It certainly doesn't mean that Traffic can't weigh in on it but that is the reason it is here tonight.

Alderman Gatsas asked Matt didn't we have this discussion recently about towing from private lots.

Deputy Clerk Normand asked on this Committee.

Alderman Gatsas answered on the Board level.

Deputy Clerk Normand stated I am not aware that it was on this type of tow. The type of tow that was discussed recently was the increase on the emergency rates that are charged. This is for the lot, like Washington Park may have a contract with LMC Towing to remove any cars that are illegally parked. These are private property tows.

Alderman Gatsas asked why do we have jurisdiction over what Washington Park...

Chairman Forest interjected I think we have jurisdiction over the tow truck companies and as a City we set the fees.

Alderman Gatsas stated there has been a discussion about private property towing in the last two or three months.

Deputy Clerk Normand responded I am not aware of one.

Alderman Lopez stated I think it is important that we don't rush to judgement. I think we need input from the Police and Traffic Committee as to whether this is a real problem. I can remember for the snow emergency towing the problem was that we had two different locations for impound lots and then there was insurance and all of that stuff. I would like input from some professional of the City.

Alderman Lopez moved that the item be referred to the Traffic Committee and Traffic Division of the Police Department for review and recommendation back to this Committee. Alderman Porter duly seconded the motion. Chairman Forest called for a vote. There being none opposed, the motion carried.

TABLED ITEM

8. Communication from Alderman Osborne requesting the contract compliance issues noted in the management letter be referred to the Committee on Administration.

On motion of Alderman Osborne, duly seconded by Alderman Porter it was voted to remove this item from the table.

On motion of Alderman Osborne, duly seconded by Alderman Porter it was voted to receive and file.

Appeals of the denial of taxi driver's licenses.

Alderman Porter moved to enter into non-public session under the provisions of RSA 91-A:3 II(c). Alderman Osborne duly seconded the motion. By roll call vote it was voted by the members of the Committee to enter into non-public session. As a result of discussion held by those present, it was the consensus of the Committee members present that Mr. Murray's, Mr. Peterson's and Ms. Duclos' licenses be reinstated.

On motion of Alderman Gatsas, duly seconded by Alderman Osborne it was voted to exit non-public session.

Deputy Clerk Normand stated that no business other than the appeal of the denial of Mr. Murray, Mr. Peterson and Ms. Duclos' taxicab licenses were discussed in non-public session.

There being no further business, on motion of Alderman Porter, duly seconded by Alderman Osborne it was voted to adjourn.

A True Record. Attest.

Clerk of Committee